

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI**

IN RE: STEPHEN R. TURNER

CASE NO. 18-12885-JDW

**EMERGENCY MOTION FOR ENTRY OF ORDER
IN AID OF COURT’S ORDER APPROVING RULE 9019 MOTION
TO APPROVE COMPROMISE AND SETTLEMENT**

Trustee Stephen Smith (“Trustee”) files this Emergency Motion for Entry of an Order in Aid of the Court’s Order Approving Rule 9019 Motion to Approve Compromise and Settlement (“Emergency Motion”); and in support thereof would show as follows, to-wit:

1. This court has jurisdiction over the subject matter herein and the parties hereto pursuant to 28 U.S.C. § 1334, 11 U.S.C. § 105, 502, 506 and 507, Rule 9019 of the Federal Rules of Bankruptcy Procedure, along with other related statutes and rules. This is a core proceeding as defined by 28 U.S.C. § 1334(A) and (B).

2. On June 5, 2019, this Court entered the order attached hereto and incorporated herein by reference as Exhibit “1” (“Order”) approving the motion of the Trustee for entry of an order approving a compromise and settlement of an estate claim pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (“R9019 Motion”) [Dkt. #74]. To avoid the Trustee’s disposition of the Debtor’s interests (25%) in approximately 1,000 acres of real property located in Panola County (“Subject Property”) by sale of his divisionary interests or otherwise, the Debtor’s mother, Peggy Turner, and sister, Stephanie Gee, (“Purchasers”) who hold divisionary interests in the Subject Property, agreed to purchase the Debtor’s interest for the sum of \$355,000.00. Following entry of the Order granting the R9019 Motion, the “sale” of the Subject Property was consummated consistent with ordinary sale closing standards. However, prior to the closing, an IRS secured tax lien in the stated amount of \$63,908.91 plus any accruing

penalties and interests (“IRS Lien”)¹ was inadvertently not discovered. Nevertheless, it clearly represents a valid lien which must be satisfied to facilitate clear title for the Purchasers as intended by the Order. A copy of the IRS’ proof of claim is attached hereto and incorporated herein by reference as Exhibit “2” and, moreover, is referenced as Claim #8 on the Claim Register related to the referenced estate.

3. Absent payment and release of the IRS Lien, the Purchasers cannot be ensured good title which is the spirit and intended effect of the Order. By this Emergency Motion, the Trustee seeks authority to immediately pay the IRS Lien in full from available estate funds so that it may be promptly released and the clear intent of the Order may be fully accomplished. Moreover, this distribution is consistent with the priorities codified by 11 U.S.C. § 507. Given the substantial effect of the IRS Lien on the contemplated settlement and the inability to quiet title for the benefit of the Purchasers absent entry of an order granting this Emergency Motion, exigent circumstances exist. Thus, the Trustee, by separate motion, seek entry of an order limiting notice of this Emergency Motion to ten (10) days so that these obvious issues may be remedied.

4. The Trustee prays for such other general and specific relief as this Court may deem just.

WHEREFORE, the Trustee respectfully requests entry of an order granting him authority to immediately disburse sufficient monies from estate funds to satisfy the IRS Lien in full and execute any documents or taken any action whatsoever necessary to accomplish a full release thereof. Furthermore, that upon a payment of this amount, that the IRS be directed to immediately cancel its lien encumbering the Subject Property to that the intended effect of the

¹ Total amount of claim is \$589,445.90, but only \$63,908.91 represent the asserted secured portion.

R9019 Motion and attendant order granting same can be rectified. The Trustee prays for such other general and specific relief as this Court may deem just.

This the 30th day of August, 2019.

Respectfully submitted,

MITCHELL, MCNUTT & SAMS, P.A.

/s/ D. Andrew Phillips

D. ANDREW PHILLIPS (MSB #8509)
ROSAMOND H. POSEY (MSB #101247)
MITCHELL, MCNUTT & SAMS, P.A.
P.O. Box 947
Oxford, MS 38655
662-234-4845

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of August, 2019, a copy of the foregoing **Motion** was served on the parties listed below by first-class mail, postage prepaid, unless said party is a registered CM/ECF participant who has consented to electronic notice, and the Notice of Electronic

Filing indicates that Notice was electronically mailed to said party:

Robert Gambrell, Esq.

J. Stephen Smith

W. Lawrence Deas, Esq.

U.S. Trustee

James Andrew Yelton, Esq.
Bailey, Womble & Yelton
357 Highway 51 North
P.O. Box 1615
Batesville, MS 38606

DATED, this the 30th day of August, 2019.

/s/ D. Andrew Phillips

D. Andrew Phillips